

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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YITZ GROSSMAN, :

Plaintiff, :

- against - :

DAVID OGOREK a/k/a USHER OGOREK :
and ELISHEVA ORGOREK a/k/a :
SHEVY OGOREK, :

Defendants. :

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CHIN, District Judge

Before the Court is defendants' motion to dismiss the complaint pursuant to Fed. R. Civ. P. 12(b)(1) and (6). The motion is granted and this case is dismissed for lack of standing. Plaintiff is not the owner of the trademark at issue or any rights in the trademark. In his opposition papers, plaintiff does not address the issue directly, but merely asks for time to conduct discovery on the issue of ownership. Without some basis for asserting ownership (or some other right to use the trademark), however, plaintiff should never have brought the case. Moreover, plaintiff's counsel advised the Court several months ago, at a hearing on August 31, 2009, that he would provide a memorandum of law setting forth the legal basis for bringing suit in federal court. Counsel has failed to provide any such memorandum.

Accordingly, this case is dismissed, with prejudice as to the trademark claims on behalf of this plaintiff, and without prejudice to (1) any state law claims that plaintiff may

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ORDER

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have, and (2) any trademark claims brought by a proper plaintiff.

SO ORDERED.

Dated: New York, New York
December 28, 2009



DENNY CHIN
United States District Judge